HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.2354 and 2366 of 2007

Dated:22.08.2007

Between:

Syed Kaleemuddin

…Petitioner.

and

Smt.Asra Muqtadir and others

…Respondents.

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WRIT PETITION Nos.2354 and 2366 of 2007

COMMON ORDER:

In both these Writ Petitions, the order of the Government in G.O.Ms.No.3 Revenue (U.C.X) Department, dated 02.01.2003, purportedly issued in accordance with the guidelines contained in G.O.Ms.No.455, dated 27.07.2002, is assailed. The petitioner in both the cases is the same.

The case of the petitioner is that he is the owner of a residential premises, bearing Municipal Nos.8-1-402/265 and 8-1-402/279 with appurtenant land in an extent of 400 square yards situated at Gulshan Colony adjacent to Quli Qutab Shahi Tombs, Shaikpet, Hyderabad, that he purchased the property under registered sale deed, dated 22.02.1994, from Kumari Sunitha and that he is in possession of the property. Be it noted that the land, which the petitioner purchased, was declared as surplus vacant land of the father of the petitioner's vendor, namely, Ghaverchand Jain. Be that as it is, the first respondent in W.P.No.2354 of 2007 appears to have claimed the property, bearing Municipal
No.8-1-402/279, as her property and similarly the first respondent in other Writ Petition, being W.P.2366 of 2007, claimed the property bearing, Municipal No.8-1-402/265, as his property. At that time, the petitioner came to know that Government of Andhra Pradesh, the third respondent herein, issued impugned order allotting an extent of 168

square meters to them under Section 23(4) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Act'). The petitioner also alleges that after getting such allotment/requisition, the contesting respondents are trying to alienate the property. Hence, these Writ Petitions.

Learned Counsel for the petitioner submits that if a person seeks regularization under G.O.Ms.No.455, such person has to produce primary documents, as a condition precedent for exercise of power by the Government and that such primary documents do not prima facie confer any title on the person claiming such allotment. He also submits that the petitioner purchased the property in February, 1994, and got it mutated in the municipal records in his name, and therefore, the respondents ought to have issued notice to the petitioner before passing any orders.

The petitioner has not filed any document in support of the claim that he is in possession of the property. Admittedly, the land in question was surplus vacant land of Ghaverchand Jain. Therefore, the exercise of power by the Government in G.O.Ms.No.455 under Section 23(4) of the Act cannot be faulted. Be it noted, unless and until the excess vacant land declared by competent authority vests in the Government under Section 10(3) of the Act, G.O.Ms.No.455 does not attract. If there is a rival claim, in respect of such surplus vacant land, at the first instance the Government may prima facie consider the claim, but if it is a serious dispute regarding title, one setting up a registered document and another placing reliance on primary documents, as mentioned in Policy Guidelines issued under the Act in paragraph 4(g) of G.O.Ms.No.455, dated 29.07.2002, the Government cannot decide a question of title and the parties have to approach the civil Court for declaration of title. In this case, the petitioner contends that the Government issued impugned G.O., after a period of four years. At this point of time, he cannot be permitted to challenge the said G.O. before this Court, when the same is barred by delay and laches. It is brought to the notice of this Court that the petitioner made a representation before the Special Officer on 04.09.2006 seeking reconsideration. When the power is conferred on the Government to allot/regularize the land under G.O.Ms.No.455, it is not permissible for the Special Officer to review the order passed by the Government. If so advised, the petitioner may approach the Government seeking review of the impugned order as per law. Liberty is also reserved to the petitioner to agitate the matter in the civil Court.

The Writ Petitions, with the above observations, are accordingly dismissed. No costs.

(V.V.S.RAO, J)

22.08.2007
GJ